

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 12, the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

This amendment requires prior authorization (PA) for initial admission to or continued stay in a certified hospital “swing bed” for a member who no longer requires acute (inpatient) hospital care and who would otherwise meet a nursing facility or skilled level of care (LOC).

This amendment will reduce the number of swing-bed admissions, which are considerably more costly than comparable admissions in a freestanding skilled nursing facility. Freestanding skilled nursing facilities would experience a potential corresponding increase in admissions for members who previously would have been admitted to a hospital swing bed.

As part of the hospital’s discharge planning process for members requiring ongoing skilled nursing care, the hospital must complete and return to the Iowa Medicaid Enterprise (IME) an LOC determination form describing the member’s LOC needs. The hospital must also contact skilled nursing facilities within a 30-mile radius of the hospital to determine if any of those facilities have available beds and are otherwise able to meet the member’s LOC needs. Initial or ongoing swing-bed admissions will only be approved if the hospital certifies that there are no available skilled nursing beds in a freestanding facility to meet the member’s LOC needs within the 30-mile radius of the hospital. For the purpose of this requirement, an “appropriate” nursing facility bed is a bed in a Medicaid-participating freestanding nursing facility that provides the LOC required for the member’s medical condition and corresponding LOC needs. A Medicaid member who has been admitted to a swing bed must be discharged to an appropriate nursing facility bed within 72 hours of an appropriate nursing facility bed becoming available. Preadmission screening and resident review (PASRR) rules still apply for members being transferred to a nursing facility. There will be some members, such as those with ventilators or other comparable care needs, whose LOC needs cannot be met in freestanding skilled nursing facilities. In such cases, the swing-bed stay would be appropriate.

The Council on Human Services adopted this amendment on June 26, 2013.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable because the Legislature provided a specific grant of emergency rule-making authority for this cost-saving measure.

Pursuant to Iowa Code section 17A.5(2)“b,” the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2013, because the amendment is in accordance with legislative intent for specific cost-saving measures.

This amendment is also published herein under Notice of Intended Action as **ARC 0843C** to allow for public comment.

This amendment does not provide for waiver in specified situations because requests for waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment became effective July 1, 2013.

The following amendment is adopted.

Amend subrule 78.3(16) as follows:

**78.3(16) Skilled nursing care in “swing beds.”**

*a.* Payment will be made for medically necessary skilled nursing care when provided by a hospital participating in the swing-bed program certified by the department of inspections and appeals and approved by the U.S. Department of Health and Human Services. Payment shall be at an amount equal to the sum of the direct care rate component limit for Medicare-certified hospital-based nursing

facilities pursuant to 441—subparagraph 81.6(16) “f”(3) and the non-direct care rate component limit for Medicare-certified hospital-based nursing facilities pursuant to 441—subparagraph 81.6(16) “f”(3), with the rate component limits being revised July 1, 2001, and every second year thereafter. Swing-bed placement is only intended to be short-term in nature.

b. Any payment for skilled nursing care provided in a hospital with a certified swing-bed program, for either initial admission or continued stay, will require prior authorization, subject to the following requirements:

(1) The hospital has fewer than 100 beds, excluding beds for newborns and intensive care.

(2) The hospital has an existing certification for a swing-bed program, pursuant to paragraph 78.3(16) “a.”

(3) The member is being admitted for nursing facility or skilled level of care (if the member has Medicare and skilled coverage has been exhausted).

(4) As part of the discharge planning process for a member requiring ongoing skilled nursing care, the hospital must:

1. Complete a level of care (LOC) determination describing a member’s LOC needs, using Form 470-5156, Swing Bed Certification.

2. Contact skilled nursing facilities within a 30-mile radius of the hospital regarding available beds to meet the member’s LOC needs.

3. Certify that no freestanding skilled nursing facility beds are available for the member within a 30-mile radius of the hospital, which will be able to appropriately meet the member’s needs.

(5) Swing-bed admissions will only be approved when there is no appropriate freestanding nursing facility bed available within a 30-mile radius, as documented by the hospital seeking the swing-bed admission. For the purpose of these criteria, an “appropriate” nursing facility bed is a bed in a Medicaid-participating freestanding nursing facility that provides the LOC required for the member’s medical condition and corresponding LOC needs.

(6) A Medicaid member who has been admitted to a swing bed must be discharged to an appropriate nursing facility bed within a 30-mile radius of the swing-bed hospital within 72 hours of an appropriate nursing facility bed becoming available.

Preadmission screening and resident review (PASRR) rules still apply for members being transferred to a nursing facility.

[Filed Emergency 6/26/13, effective 7/1/13]

[Published 7/24/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/24/13.